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UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA  
FT. LAUDERDALE DIVISION

CHERL SEARS,  
Plaintiff,

CASE NO. 00-6017-CIV-DIMITRIOULEAS  
MAGISTRATE JUDGE SELTZER

vs.

THE SCHOOL BOARD OF  
BROWARD COUNTY, FLORIDA,  
Defendant.

**PLAINTIFF'S STATEMENT OF MATERIAL FACTS IN SUPPORT OF HER  
MOTION FOR SUMMARY JUDGMENT**

Plaintiff, Cherl Sears, by and through her undersigned counsel, and pursuant to Local Rules 7.1 and 7.5 of the Local Rules of the United States District Court for the Southern District of Florida, hereby files this Statement of Material Facts In Support Of Her Motion For Summary Judgment.

The Plaintiff, Cherl Sears (hereinafter, referred to as, "SEARS"), had been employed, over a rather extensive period of time, as a substitute teacher for the Broward County School Board. [See, the Affidavit of Cherl Sears, attached hereto, as Exhibit A]. SEARS began working as a substitute teacher for the Defendant in 1992. [See, the Affidavit of Cherl Sears, attached hereto, as Exhibit A]. Her status changed in October of 1996, and continuing through February of 1998, when she had been employed as a "pool substitute" teacher. [See, the Affidavit of Cherl Sears, attached hereto, as Exhibit A]. From March of 1998 through October 5, 1998, the Defendant employed

SEARS as an “interim substitute teacher” in the exceptional student education program.

**[See, the Affidavit of Cheryl Sears, attached hereto, as Exhibit A].**

During the 1998-1999 school year, the Defendant offered SEARS the opportunity to be hired as a permanent full-time teacher. **[See, the Affidavit of Cheryl Sears, attached hereto, as Exhibit A].** In October of 1998, SEARS possessed a two-year temporary teaching certificate, which entitled her to teach social science subjects and her teaching eligibility was consistent with other active working teachers. **[See, the Affidavit of Cheryl Sears, attached hereto, as Exhibit A].**<sup>1</sup>

However, the Plaintiff’s application for a full-time teacher position was rejected and she was barred from being re-hired as a substitute teacher in the Broward County School System. **[See, the Affidavit of Cheryl Sears, attached hereto, as Exhibit A].** These rejections were primarily based upon the fact that SEARS had been arrested in 1995 for narcotics possession.<sup>2</sup>

The decision to reject the Plaintiff’s application was initially made by the Defendant’s Security Clearance Committee. **[See, the Deposition of Gracie Diaz, at p. 8].**<sup>3</sup> That committee has guidelines and under Category II of those guidelines, a felony

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<sup>1</sup> See also, the Affidavits of Barbara H. Atkins and Cora Walls, attached hereto, as composite **Exhibit B.**

<sup>2</sup> See, the Affidavit of Cheryl Sears, attached hereto, as **Exhibit A.** The arrest did not result in a conviction and in fact, the charges were ultimately dismissed and expunged from the criminal court records.

<sup>3</sup> No minutes are taken of the meetings of the Security Clearance Committee. **[See, the Deposition of Gracie Diaz, at p. 17].** The Security Clearance Committee had the same concerns, underlying its decision

offense, which is less than ten-years old disqualifies an applicant from employment.<sup>4</sup> However, Ms. Gracie Diaz, the Chairwoman of the Security Clearance Committee, and the Defendant's Director of Instructional Staffing, maintained that at the time of the SEARS application in October of 1998, there were no formal written guidelines<sup>5</sup> to assist the Security Clearance Committee. [See, the Deposition of Gracie Diaz, at p. 8].<sup>6</sup> But Ms. Diaz subsequently admitted that "if there's reason to believe that there was probable cause or that there was information that substantiated that this occurred, that person may be deemed unemployable."<sup>7</sup>

SEARS appealed<sup>8</sup> the rejection of her employment application to the Associate Superintendent of District Administration, Mr. Hal Blitman. [See, the Deposition of

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when it refused to consider Ms. SEARS for a substitute teacher position. [See, the Deposition of Gracie Diaz, at p. 28].

<sup>4</sup> See, Exhibit No. 1, attached to the Deposition of Gracie Diaz.

<sup>5</sup> Ms. Diaz' testimony is somewhat contradictory, because she testified that some guidelines, as contained in the Personnel Division Handbook, were indeed in existence in October, 1998. [See, the deposition of Gracie Diaz at p. 23 and Exhibit No. 6, attached to her deposition.] Part IV(C)(1) of Security Clearance Procedure, as contained within the Personnel Division Handbook, barred those individuals who had been arrested for criminal offenses from employment. Ms. Diaz could not state with certainty whether this provision was in existence in October, 1998.

<sup>6</sup> The guidelines admittedly codified the prior in practice principles, which were previously used by the Security Clearance Committee. [See, the Deposition of Gracie Diaz at p. 10].

<sup>7</sup> Despite this apparent rule of exclusion, Ms. Diaz went on to say "we (the Committee) did review them (applications) case by case." [See, the Deposition of Gracie Diaz at p. 9.]. *According to this view, there are no identifiable standards to review an application and hence, an applicant is denied employment without any identifiable criteria. See, the Deposition of Gracie Diaz at p. 34.*

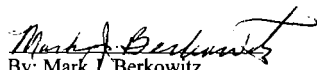
<sup>8</sup> No appeal procedures were formalized in writing. [See, the Deposition of Gracie Diaz, attached hereto, at p. 30].

**Gracie Diaz, at p. 14].** The Plaintiff was not provided with any written guidelines on the appeal process. **[See, the Deposition of Gracie Diaz, at p. 37].**<sup>9</sup> At this initial appeal level, SEARS was not given the opportunity to formally address either the Security Clearance Committee or Mr. Blitman. **[See, the Deposition of Gracie Diaz, at p. 18].**<sup>10</sup>

The Defendant also maintains a Security Clearance Committee for non-instructional staff personnel. **[See, the deposition of Gracie Diaz, attached hereto, at p. 27].** In October of 1998, the security guidelines for the non-instructional staff personnel were identical to the guidelines for the instructional staff personnel. **[See, the deposition of Gracie Diaz, attached hereto, at p. 27].** Non-instructional staff personnel includes custodians, clerical employees, bus drivers and food service workers. **[See, the deposition of Gracie Diaz, attached hereto, at p. 27].**

Respectfully submitted,

Mark J. Berkowitz, P.A.  
524 S. Andrews Avenue  
Suite 200N  
Ft. Lauderdale, Florida 33301  
(954) 527-0570 Telephone  
(954) 463-5428 Telecopier  
Fla. Bar No. 369391

  
By: Mark J. Berkowitz

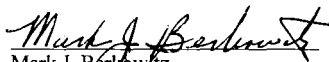
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<sup>9</sup> To the best of Ms. Diaz' knowledge, SEARS was not informed as to what kind of additional information she was to provide in the appeals process. **[See, the Deposition of Gracie Diaz, at p. 30].**

<sup>10</sup> It is uncertain what criteria or standards would apply to deny an application in the appeal process, above the associate superintendent level. **[See, the Deposition of Gracie Diaz, at p. 35].**

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing was sent by regular mail on this 15<sup>th</sup> day of December, 2000, to Gordon Rogers, Esq., Muller, Mintz, et al., First Union Financial Center, 200 S. Biscayne Blvd., Suite 3600, Miami, Florida 33131.

  
Mark J. Berkowitz

**EXHIBIT A**

**AFFIDAVIT OF CHERL SEARS IN SUPPORT OF HER MOTION FOR  
SUMMARY JUDGMENT**

**STATE OF FLORIDA  
COUNTY OF BROWARD**

**Before me**, the undersigned authority, personally appeared Cherl Sears, who, after being duly sworn, deposed and stated as follows:

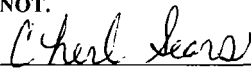
1. I am the Plaintiff in the case before the Court entitled, "Cherl Sears v. The School Board of Broward County," Case No. 00-6017-CIV-DIMITRIOULEAS.
2. I had been employed as a substitute teacher, for the Broward County School Board (hereinafter, referred to as, the "SCHOOL BOARD"), beginning in 1992, and my employment status remained unchanged with the SCHOOL BOARD, until October of 1996.
3. From October of 1996, through February of 1998, I had been employed as a "pool substitute" teacher for the Defendant SCHOOL BOARD.
4. In March of 1998, and continuing until October 5, 1998, the Defendant SCHOOL BOARD employed me as an "interim substitute" teacher, in the exceptional student education program.

5. In October of 1998, I possessed a two-year temporary teaching permit, which entitled her to teach social science subjects, in public school systems located within the State of Florida.
6. During the 1998-1999-school term, the SCHOOL BOARD offered me the opportunity to be hired as a permanent full time teacher, to provide instruction in the social science curriculum, in public schools, administered by the SCHOOL BOARD in Broward County, Florida.
7. My application contained numerous positive references in support of my candidacy.
8. My application contained a complete and truthful description of the incident, which resulted in the arrest. **[See, the Police Report, attached hereto, as Exhibit 1]**
9. The SCHOOL BOARD possessed a security clearance procedure, which penalized applicants who had been arrested, but who had not been convicted of a criminal offense. **[See, the Security Clearance Procedure, attached hereto, as Exhibit 2]**
10. The SCHOOL BOARD also possessed Personnel Hiring Guidelines, relating to applicants who have a criminal history. **[See, the Personnel Hiring Guidelines, attached hereto, as Exhibit 3]**



11. My application for a permanent teaching position was rejected by the SCHOOL BOARD, solely because of an arrest for narcotics possession in 1995.
12. However, the arrest did not result in a conviction.
13. The criminal charges were dismissed because of my successful participation in a pre-trial intervention program.
14. Moreover, any evidence of the criminal charge was subsequently expunged from the criminal court records.
15. The Security Clearance Committee of the SCHOOL BOARD rejected my application for a permanent full time teaching position because of the criminal charge.
16. The Security Clearance Committee of the SCHOOL BOARD also prohibited me from reassuming my substitute teacher assignments, based upon the 1995 arrest.
17. On December 10, 1998, the Security Clearance Committee of the SCHOOL BOARD denied my appeal of their decision. **[See, correspondence from the SCHOOL BOARD Security Committee, attached hereto, as Exhibit 5]**

FURTHER AFFIANT SAYETH NOT.

  
\_\_\_\_\_  
CHERL SEARS

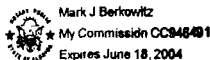
**STATE OF FLORIDA  
COUNTY OF BROWARD**

**BEFORE ME**, the undersigned authority, personally appeared Cheryl Sears, on this 4<sup>th</sup> day of December, 2000, who is personally known to me, or who has produced \_\_\_\_\_, as identification, and after being by me first duly sworn, deposes and says that she has signed the foregoing affidavit in support of her Motion For Summary Judgment and that the representations contained therein are true and correct to the best of her knowledge, information and belief.

Mark J. Berkowitz  
Notary Public

Mark J. Berkowitz  
Printed Notary Name

**My Commission Expires:**



**EXHIBIT 1**

ARREST NO. DEFENDANT'S LAST NAME FIRST MIDDLE SUFF. HGT. WGT. RC SEX D.O.B. OFFENSE REPORT ARRESTING OFFICER (SIGN) DOCS NO.

06017-WPD Document-27 Entered on FLSD Docket 12/15/2000

Scars, Ronda 5'11" 150 8 M 1975-5-16697 R.H. Parv 125

NAME OF VICTIM (IF CORPORATION, EXACT LEGAL NAME AND STATE OF INCORP.) ADDRESS PHONE #

Vincent Small (Hecococa) 1909 NW 46 Ave, Lauderdale Hill

COUNT NO.	OFFENSES CHARGED	CITATION #, IF APPLICABLE	F.S. # OR CAPIAS/WARRANT
1	MURDER		182.04

Before me this date personally appeared Robert H. Parv who being first duly sworn, deposes and says that on 29 day of May, 1995 at 4701 NW 14 ST Lauderdale Hill FL above named defendant committed the above offenses charged and the facts showing probable cause to believe same are as follows:

Witness Asha Eubanks and Termaine Prince were both seen in an automobile next to the crime scene. Both describe the automobile driven by the shooter as white. Prince recalls that the shooter pulled a handgun from his waistband and began beating the victim in the face and head with the gun while the victim pleaded with him to stop. The shooter fired one time striking the victim who was now on the ground. The witness saw the victim walk across the road and finally collapsed on a lawn.

Fort Lauderdale Police stopped the defendant who was driving a white Cadillac with a blue fabric roof. Gold trim ornaments with light window tint. The defendant was arrested for a traffic offense and possession of crack cocaine, at which time your Affiant was called and advised. Witness Eubanks and Prince reported that the shooter looked similar to the person who committed the crime.

I swear this above statement is correct and true to the best of my knowledge and belief.

[Signature] R.H. Parv 1254

OFFICER/AFFIANT'S SIGNATURE OFFICER'S NAME/CCN OFFICER'S DIVISION

STATE OF \_\_\_\_\_ COUNTY OF \_\_\_\_\_

The foregoing instrument was acknowledged before me this 15 day of JUNE, 1995 who is personally known to me or who has produced (ID Type) \_\_\_\_\_ as identification and who \_\_\_\_\_ take an oath. (DO OR DO NOT)

[Signature] Police 266

DEPUTY CLERK OF THE COURT, NOTARY PUBLIC, OR ASSISTANT STATE ATTORNEY TITLE OR RANK/CCN

SEVENTEENTH JUDICIAL CIRCUIT BROWARD COUNTY FIRST APPEARANCE/ARREST FORM

0106

ARREST NO. PROBABLE CAUSE AFFIDAVIT CONTINUATION DOBTS NO.

DEFENDANT'S LAST NAME FIRST MIDDLE INITIAL SUFF. HGT. WGT. RC SEX DOB OFFENSE REPORT ARRESTING OFFICER'S SIGNATURE

06017-WPD Document 27 Entered on FLSD Docket 12/15/2000

Scar, David 5'7" 125 5 M 3/1/67 95-5-16697 R.H. Allen

NAME OF VICTIM (IF CORPORATION, EXACT LEGAL NAME AND STATE OF INCORP.) ADDRESS PHONE

Vincent Small 1909 NW 46 Ave, Lauderdale

COUNT NO.	OFFENSES CHARGED	CITATION #, IF APPLICABLE	F.S. # OR CAPIAS/WARRANT
1	MURDER		182.04

Before me this date personally appeared Robert H. Parr who being first duly sworn, deposes and says that on 04 day May, 1995 at 4701 NW 14 St + Lauderdale (crime location) above named defendant committed the above offenses charged and the facts showing probable cause to believe same are as follows:

(Supporting witness Samuel's Positive Identification)

The defendant additionally made a comment to the transporting Ft. Lauderdale Officer asking if we wishing to question him about a "Robbery or a Killin". No one mentioned either crime to him.

Broward Associate Medical Examiner Dr. Arne advise that the victim died by a gunshot wound and the manner of death was ruled to be a Homicide.

Witness Samuel's was shown a photo lineup of the defendant's vehicle & stated it looked like the car she observed at the crime scene.

Defendant voluntarily submitted/demanded to a polygraph examination. Upon conclusion, the results indicated the defendant was deceptive on key questions surrounding the shooting. Defendant denied all allegations regarding the shooting incident.

I swear the above statement is correct and true to the best of my knowledge and belief

OFFICER/AFFIANT'S SIGNATURE R.H. Allen OFFICER'S NAME/CCN 1736 OFFICER'S DIVISION

STATE OF COUNTY OF

The foregoing instrument was acknowledged before me this 15 day of JUNE, 1995, who is personally known to me or who has produced (ID Type) as identification and who (did or did not) take an oath.

DEPUTY CLERK OF THE COURT, NOTARY PUBLIC OR ASSISTANT STATE ATTORNEY TITLE OR RANK/CCN PLU 26

SEVENTEENTH JUDICIAL CIRCUIT FIRST APPEARANCE/ARREST FORM BROWARD COUNTY

0107

FILING AGENT		OFFENSE REPORT		OUTS NO.	
DEFENDANT'S LAST NAME: SCARS		FIRST: DAVID		MIDDLE: NMN	
RC: B	SEX: M	HGT: 5'4"	EYES: BRN	HAIR: BLK	WGT: 135
COMP: LT.		AGE: 28	D.O.B.: 3-11-67		BIRTHPLACE: NASSAU, PAH. REAL PAH.
PERMANENT ADDRESS: 4730 N.W. 11 <sup>TH</sup> ST. LAUDERHILL, FL. 33313					
LOCAL ADDRESS: 4730 N.W. 11 <sup>TH</sup> ST. LAUDERHILL, FL. 33313					
PLACE OF EMPLOYMENT: LAST R LAUNSER					
RESIDENCE TYPE: (1) CITY (2) COUNTY (3) FLORIDA (4) OUT-OF-STATE		DATE TIME ARRESTED: 6-14-95			
HOW LONG DEFENDANT IN BROWARD COUNTY: 28 YRS.		BREATHAIZER BY/CCN: 1500 E. SUNRISE		ARRESTING OFFICER'S CN: R.P. MARTIN	
OFFICER INJURED: <input type="checkbox"/> N <input checked="" type="checkbox"/> Y		UNIT ZONE/BEAT: 1102		SHIFT: 2	
UNIT TRANSPORTING PRISONER: <input type="checkbox"/> N <input checked="" type="checkbox"/> Y		TRANSPORTING OFFICER/CCN: 1500 E. SUNRISE		PICK-UP TIME: 6:14	
TYPE: N/A		B-BARBITURATE		H-HALLUCINOGEN	
N/A		C-COCAINE		M-MARIJUANA	
N/A		E-HEROIN		O-OPUM	
N/A		S-SYNTHETIC		EQUIPMENT	
N/A		Z-OTHER		ACTIVITY	
N/A		S-SELL		A-SHAULAGE	
N/A		B-BUY		D-DELMER	
N/A		P-POSSESS		T-TWATC	
N/A		E-EDGE		M-MANUFACTURE	
N/A		P-PRODUCE		O-OUTRAGE	
N/A		E-ESPIONAGE		Z-OTHER	
N/A		D-DISTRIBUTE		INDICATION OF ALCOHOL INFLUENCE	
N/A		N/A		N/A	
N/A		N/A		N/A	
N/A		N/A		N/A	

DEFENDANT'S VEHICLE MAKE: ADILCAG		MODEL: 1995		YEAR: 1995	
DEFENDANT'S VEHICLE COLOR: BLACK		DEFENDANT'S VEHICLE VIN: 1G6H56975B371		DEFENDANT'S VEHICLE LICENSE: 1G6H56975B371	
DEFENDANT'S VEHICLE TOWED TO: BPD		DEFENDANT'S VEHICLE TOWED BY: BPD		DEFENDANT'S VEHICLE TOWED DATE: 6-14-95	
DEFENDANT'S VEHICLE TOWED TIME: 6:14		DEFENDANT'S VEHICLE TOWED LOCATION: 1500 E. SUNRISE		DEFENDANT'S VEHICLE TOWED OFFICER: R.P. MARTIN	

NAME OF VICTIM (IF CORPORATION, EXACT LEGAL NAME AND STATE OF INCORP.)		ADDRESS		PHONE #	
COUNT NO.	OFFENSES CHARGED	CITATION #, IF APPLICABLE	F.S. # OR CAPAS/WARRANT #		
1	OPERATING VEH. AGAINST RESTRICTIONS (BUSINESS PURPOSES ONLY)	281816-K	332.16		
2	POSSESSION OF COCAINE				

Before me this date personally appeared RICHARD P. MARTIN who being first duly sworn, deposes and says that on 14<sup>TH</sup> day of JUNE, 1995, at 1500 E. SUNRISE BLVD. BROWARD COUNTY, above named defendant committed the above offenses charged and the facts showing probable cause to believe same are as follows:

THE UNDERSIGNED OFFICER + OFF. D. PORIO INITIALLY OBSERVED THE ARRESTED VEHICLE IN THE 2300 BLK. OF N.W. 19<sup>TH</sup> ST. AS IT WENT EASTBOUND. THE VEHICLE FIT THE DESCRIPTION OF A VEHICLE THAT WAS A SUSPECT VEHICLE IN A HOMICIDE WHICH BSO WAS HANDLING. DET. PARR OF BSO HAD GIVEN THESE OFFICERS:

I swear the above statement is correct and true to the best of my knowledge and belief.

R.P. MARTIN OFFICER/AFFIANT'S SIGNATURE R.P. MARTIN 514 OFFICER'S NAME/CCN PATROL OFFICER'S DIVISION

STATE OF \_\_\_\_\_ COUNTY OF \_\_\_\_\_

The foregoing instrument was acknowledged before me this 15 day of JUNE, 1995, who is personally known to me or who has produced (ID Type) \_\_\_\_\_ as identification and who \_\_\_\_\_ (DID OR DID NOT) take an oath.

DEPUTY CLERK OF THE COURT, NOTARY PUBLIC, OR ASSISTANT STATE ATTORNEY \_\_\_\_\_ TITLE OR RANK/CCN BLK 26

(SEAL OR STAMP) 0108

ARREST NO. PROBABLE CAUSE AFFIDAVIT CONTINUATION# OBTS NO.

DEFENDANT'S LAST NAME: FIRST MIDDLE SUR. HGT. WGT. RC SEX D.O.B. OFFENSE REPORT ARRESTING OFFICER (SYN)

SEARS, DAVID 5'4" 135 B M 3-11-67 95-9587 R.P. MARTIN

NAME OF VICTIM (IF CORPORATION, EXACT LEGAL NAME AND STATE OF INCORP.) ADDRESS PHONE #

COUNT NO.	OFFENSES CHARGED	CITATION #, IF APPLICABLE	F.S. # OR CAPIAS/WARRANT

Before me this date personally appeared RICHARD P. MARTIN who being first duly  
deposes and says that on 14 day JUNE 1995 at 1500 E. SUNRISE BLVD. FLD  
above named defendant committed the above offenses charged and the facts showing probable cause to believe same are as follows: POMPADO COUNTY

A DESCRIPTION OF THE SUSPECT VEHICLE AS WELL AS A COMP  
ITE OF THE POSSIBLE CULPRIT, ON MON. 6-13-95.  
ON THIS DATE OFF. MARTIN ATTEMPTED TO CATCH THE VEHICLE  
AS IT PROCEEDED EAST ON N.W. 19<sup>TH</sup> ST. BUT THE VEHICLE  
TURNUED OFF OF NW 19 ST. IN THE AREA OF N.W. 20 AVE. TO  
15 AVE. OFF. MARTIN PUT OUT A DESCRIPTION OF THE VEHICLE,  
AS WELL AS A BRIEF DESCRIPTION OF THE POSSIBLE SUSP  
+ DIRECTED FLPD OFFICERS TO THE AREA OF W. SUNRISE +  
15 AVE. A POMPADO P.D. DETECTIVE (DET. LACY A. CREW)  
THEN OBSERVED THE VEHICLE EASTBOUND ON W. SUNRISE BL  
NEAR N.W. 9<sup>TH</sup> AVE. + DIRECTED FLPD MARKED UNITS TO TH  
AREA. WHEN SUFFICIENT UNITS WERE IN THE AREA A TRAFF  
STOP WAS MADE AT E. SUNRISE + N.E. 15 AVE. (FLPD OFFI  
S. LEDEGANG, CASTRO, PINTO-GONZALEZ, + M. MONIZ). OFFICER  
MARTIN + PORIO RESPONDED TO E. SUNRISE + NE 15 AVE. AND  
CHECKED THE DRIVER FOR A DRIVERS LICENSE, WHICH

I swear the above statement is correct and true to the best of my knowledge and belief.

R.P. Martin  
OFFICER/AFFIANT'S SIGNATURE

R.P. MARTIN 511  
OFFICER'S NAME/CCN

PATROL  
OFFICER'S DIVISION

STATE OF

COUNTY OF

0109

The foregoing instrument was acknowledged before me this 15 day of JUNE, 1995, who is personally  
known to me or who has produced (ID Type) as identification and who take an oath.  
(DID OR DID NOT)

(SEAL OR STAMP)

W. J. By  
DEPUTY CLERK OF THE COURT, NOTARY PUBLIC, OR ASSISTANT STATE ATTORNEY

Blue 266  
TITLE OR RANK/CCN

SEVENTEENTH JUDICIAL CIRCUIT  
BROWARD COUNTY

FIRST APPEARANCE/ARREST FORM

Orig - Court  
2nd - State Atty.  
3rd - Filing Atty.  
4th - Arresting Officer

Document 27 Entered on FLESD Pocket 12/15/2000

SEARS, DAVID 5'4" 135 B M B-11-67 95-95287 R.P. MARTIN

NAME OF VICTIM (IF CORPORATION, EXACT LEGAL NAME AND STATE OF INCORP.) ADDRESS PHONE #

COUNT NO.	OFFENSES CHARGED	CITATION #, IF APPLICABLE	F.S. # OR CAPIAS/WARRANT

Before me this date personally appeared RICHARD P. MARTIN who being first duly sworn, deposes and says that on 14 day JUNE, 1995 at 1500 E. SUNRISE BLVD. BROWARD COUNTY above named defendant committed the above offenses charged and the facts showing probable cause to believe same are as follows: BROWARD COUNTY

THE ARRESTED SEARS HAD, BUT IT HAD A RESTRICTION FOR WORK PURPOSES ONLY, AND THE ARRESTED HAD RELATED TO OFF. MARTIN THAT HE WAS NOT WORKING, RATHER HE + HIS GIRLFRIEND (PASS. IN VEHICLE) CHERYL DENISE HALL WERE GOING SHOPPING.

AT THIS POINT SEARS WAS PLACED UNDER ARREST FOR VIOLATION OF RESTRICTIONS ON D.C. + A TOW TRUCK WAS CALLED TO THE SCENE. IT SHOULD ALSO BE NOTED THAT SEARS HAD A LARGE AMMOUNT OF CASH IN HIS POSSESSION + HE ALSO HAS A PAST ARREST RECORD FOR NARCOTICS VIOLATIONS. OFF. MONIZ WAS ON THE SCENE WITH HIS DRUG DOG KONAN, WHO WAS THEN UTILIZED TO CONDUCT A SEARCH OF THE VEHICLE. THE DRUG DOG LOCATED 14 GMS OF COCAINE UNDER THE DASH OF THE VEHICLE. THE DRUG DOG ALSO "HIT" ON THE CASH THAT SEARS + HALL HAD IN THEIR POSSESSION. THE VEHICLE WAS THEN TOWED TO F.C.P.D. CONFISCATION.

I swear the above statement is correct and true to the best of my knowledge and belief.

R.P. Martin  
OFFICER/AFFIANT'S SIGNATURE

R.P. MARTIN 511  
OFFICER'S NAME/CCN

PATROL  
OFFICER'S DIVISION

STATE OF

COUNTY OF

The foregoing instrument was acknowledged before me this 15 day of JUNE, 1995, who is personally known to me or who has produced (ID Type) [Signature] as identification and who [Signature] take an oath.

(HID OR DID NOT)

DEPUTY CLERK OF THE COURT, NOTARY PUBLIC, OR ASSISTANT STATE ATTORNEY

TITLE OR RANK/CCN

SEVENTEENTH JUDICIAL CIRCUIT  
BROWARD COUNTY

FIRST APPEARANCE/ARREST FORM

0110

(SEAL OR STAMP)

Clerk - Court  
2nd - State Atty.  
3rd - County Atty.  
4th - Sheriff



BROWARD COUNTY: ARREST NO. \_\_\_\_\_ PROBABLE CAUSE AFFIDAVIT CONTINUATION OBTs NO. \_\_\_\_\_  
 v-06017-WPD Document 27 Entered on FLSP Docket 12/18/2000 Pa  
 ARREST NO. \_\_\_\_\_ NAME OF VICTIM (IF CORPORATION, EXACT LEGAL NAME AND STATE OF INCORP.) ADDRESS PHONE #  
 SEARS, DAVID 5'4" 135 lbs B-11-67 95-95287 R.P. MARTIN S  
 COUNT NO. OFFENSES CHARGED CITATION #, IF APPLICABLE F.S. # OR CAPIAS/WARRANT #

Before me this date personally appeared RICHARD P. MARTIN who being first duly sworn  
 deposes and says that on 14 day JUNE, 19 95, 1500 E. SUNRISE BLVD. F. LAUD (crime location)  
 above named defendant committed the above offenses charged and the facts showing probable cause to believe same are as follows. BROWARD COUNTY

THE NARCOTICS WAS VACTOX TESTED BY OFF. MONIZ + SHOWED  
POSITIVE FOR COCAINE. THE NARCOTICS + CASH WAS PLACED  
INTO EVIDENCE BY OFF. MONIZ.  
DET. PRAR + DET. O'NEAL ALSO RESPONDED TO E. SUNRISE +  
15 AVE. + REQUESTED THAT BOTH SEARS + MALL BE BROUGHT  
TO B.S.O HEADQUARTERS SO THEY COULD FURTHER THEIR IN-  
VESTIGATION OF THEIR HOMICIDE.  
AT THIS POINT SEARS HAD BEEN CHARGED WITH VIO. OF RES-  
ON HIS D.L. + ALSO POSS. OF COCAINE, AND MALL WAS CHARG-  
ED WITH POSS. OF COCAINE, WHICH OFF. MONIZ WAS INITIA-  
TING.

I swear the above statement is correct and true to the best of my knowledge and belief  
[Signature] R.P. MARTIN S-11 PATROL  
 OFFICER/AFFIANT'S SIGNATURE OFFICER'S NAME/CCN OFFICER'S DIVISION

STATE OF \_\_\_\_\_ COUNTY OF \_\_\_\_\_  
 The foregoing instrument was acknowledged before me this 16 day of JUNE, 19 95, who is personally  
 known to me or who has produced (ID Type) \_\_\_\_\_ as identification and who \_\_\_\_\_ take an oath  
 \_\_\_\_\_ (did or did not)  
[Signature] Police 206  
 DEPUTY CLERK OF THE COURT, NOTARY PUBLIC OR ASSISTANT STATE ATTORNEY TITLE OR RANK/CCN  
 SEVENTEENTH JUDICIAL CIRCUIT FIRST APPEARANCE/ARREST FORM  
 BROWARD COUNTY

0111  
 (SEAL OR STAMP)  
 Orig. Court  
 2nd State Atty.  
 3rd Filing Agency  
 4th Arresting Agency

**EXHIBIT 2**

## PERSONNEL DIVISION HANDBOOK



## SECURITY CLEARANCE PROCEDURE

- I Purpose: To ensure that a security background check is done on all individuals (see III below), ~~who will be in direct contact with the children of The Broward County School System.~~
- II Check for Sexual Predator, Deadbeat Parent, and State Termination: The Broward Security Clearance Office shall check latest list of sexual predators, deadbeat parents, EPC/PPS records, and the list of persons on the Florida list of terminated employees before giving security clearance.
- III All applicants for employment, all employees of outside vendors, all mentors who come in direct contact with children, all education students prior to their field experience and student teaching, and all employees who become inactive for ninety (90) or more days in TAPS must be fingerprinted and pay a \$50.00 fee.
- IV Procedure:
  - A. When individuals in the above categories appear for processing at the Employment Center, they must complete a Security Background Information Form and allow their fingerprints to be taken.
  - B. A local check is done through the Broward Sheriff's Department Docketrac computer system. If no record surfaces, the individual is cleared and the fingerprints are then sent to FDLE. If a record is found at the state level, the record is returned to security clearance office for appropriate action. If no state record is disclosed, the fingerprints are forwarded to FBI. If no record is discovered by the FBI, original fingerprint card is returned to Broward and kept on file. If a record is found, the individual's file is given to the appropriate administrator: Director of Non-Instructional Staffing or Director of Instructional Staffing.
  - C. Individuals with records: The case is reviewed by the appropriate staffing director: if other than a minor traffic offense, the individual is asked to provide explanation, police records and court documents verifying disposition regardless of whether adjudication was withheld, sealed or expunged.
    1. If an individual provides documentation of a criminal incident (identified in #1 Personnel Hiring Guidelines) regardless of whether adjudication was withheld, such individual shall not be employed.

## V. Appeals Process:

Applicants who have been denied employment because of criminal incident(s) may appeal the decision of the Security Clearance Committee may be appealed in by writing to the Associate Superintendent for District Administration Director, Personnel & Benefits. Such written appeal shall be considered only if the applicant provides new information that was not previously available to the Security Clearance Committee.

Document Preparation Date: July 1, 1996

Revision date: ~~November 20, 1998~~ December XX, 1999

Contact Persons: Gracie M. Diaz, Bill Tegtman

Appendix: Security Background Check Form, Personnel Hiring Guidelines

Authority: FI Statute 231-02, ~~435.04~~

Board Policy #4002-A, B

**EXHIBIT 3**

School Board of Broward County, Florida  
Personnel Hiring Guidelines

Criminal Records Including Guilty Pleas (Regardless of Adjudication),

No Contest Pleas, Pre-trial Intervention/Diversion

This is not intended to be a complete list of all disqualifying criminal offenses.

**I. Will Not Hire**

- Extreme Violence (Aggravated Assault/Aggravated Battery, Murder, Attempted Murder)
- Sexual Offense (Lewd & Lascivious-Sexual Battery, Rape, Sex With A Minor)
- Kidnapping
- False Imprisonment
- Child Abuse
- Arson
- Pornography
- Extortion
- Manslaughter (Including Vehicular Homicide/Involuntary)
- Indecent Exposure If Sexual In Nature
- Currently on probation or has a case pending

**II. Will Not Hire - If Offense Less Than 10 Years Old. Will Consider And Carefully Review If Older Than 10 years.**

- Felony Drug Use
- Grand Theft / Robbery
- Burglary
- Felony Battery/Assault
- Felony Possession of a Concealed Weapon
- Welfare/Unemployment Fraud
- Forgery
- Prostitution or Solicitation of Prostitution
- Grand Larceny
- Other Felonies Not Mentioned in Section I

**III. Will Not Hire - If Offense is Less Than 5 Years Old. Will Consider And Carefully Review If Older Than 5 years.**

- Multiple DUI's
- Misdemeanor Drug and/or Paraphernalia
- Possession of Concealed Weapon - Misdemeanor
- Battery/Assault
- Resisting Arrest With Violence
- Domestic Violence

**IV. Judgment - Case By Case Review**

- DUI - One Incident Only
- Sale of Alcohol to Minor
- Worthless Checks
- Disorderly Conduct
- Multiple Criminal Offenses
- Petty Theft (Theft to Deprive/Retail Theft/Shoplifting)
- Loitering
- Trespassing
- Arrest With Out Violence
- Larceny
- Other criminal offenses



12/10/99

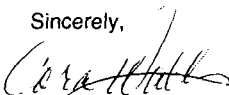
0055

**EXHIBIT B**

To : Whom it may concern,  
From : Cora Walls  
Date: November 30, 2000  
Re: Two-Year Temporary Certificate

I, Cora Walls has worked under a two-year temporary certificate from 1996-1998. Once it expired I was re- issued another two-year temp. from 1998-2000. Due to an extension given to me for incompleted course work needed. As part of the State of Florida requirements I needed to complete two classes, and the Clast Exam in order for me to receive my five year professional certificate. Which wasn't complete at the time and that's why I receive an extension.

Sincerely,

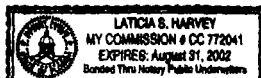


Cora Walls

State of Florida  
County of Broward

Sworn to and affirmed and signed before me on this 30<sup>th</sup>  
day of November, 2000. Laticia S. Harvey

\* personally known.






To Whom It May Concern:

This letter in reference to Mrs. Cheryl Sears, I have known Mrs. Sears for the last ten years. She is of good character to the community at large and the educational system. I am presently teaching in the Broward County School System and this is my second time receiving a two-year temporary teaching certificate coming from the State of Florida Teaching Department. Therefore, it is possible for Mrs. Sears to receive a two-year temporary certificate after being out of the system for one consecutive year.

If you have any questions, please feel free at anytime to contact me at (954) 978-6371 home or (954) 895-2289 cell.

Sincerely,

  
Barbara H. Atkins

  
 Pamela Phoenix  
Commission # CG 094767  
Expires Jan. 22, 2004  
Bonded Thru  
Atlantic Bonding Co., Inc.